
Appeal Decision

Site visit made on 30 October 2023

by S. Ashworth BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2023

Appeal Ref: APP/X5990/W/23/3320807

6 Bedford Street, London, WC2E 9HZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Simon Barratt on behalf of JD Wetherspoon PLC against the decision of City of Westminster Council.
 - The application Ref 22/01596/FULL, dated 2 March 2022, was refused by notice dated 1 February 2023.
 - The development proposed is use of ground floor and basement as public house (sui generis). External and internal alterations including new entrance doors and modifications to windows/shopfronts including installation of awnings, replacement ventilation system and installation of plant.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal concerns part of the ground floor and basement of No 6 Bedford Street which forms part of the Grade II listed building, Nos 4-6 Bedford Street and Nos 1-5 Chandos Place which dates from 1877. The proposal includes internal and external alterations, including the removal of the suspended ceiling and contemporary restaurant interior, the removal and replacement of the entrance doors and the replacement of decorative panels and stallrisers for which listed building consent was granted on 26 April 2023.¹ I have had regard to that decision in my consideration of this appeal.

Background and Main Issue

3. The building, originally a department store, was internally destroyed by fire in the 1980's and subsequently restored. Since that time parts of the ground floor and basement- the appeal site- have been used as a restaurant until it closed a few years ago. The upper floors of the building are in use as offices. The proposal seeks to change the use of part of the basement and restaurant to a public house with associated external alterations.
4. The main issue in this case is the effect of the proposal on the character of the area and, linked to that, its effect on the living conditions of local residents, having particular regard to noise and disturbance.

¹ Application Ref: 22/01873/LBC

Reasons

Policy Background

5. The Development Plan for the area includes the London Plan adopted in 2021 (the London Plan) and the Westminster City Plan also adopted in 2021 (the City Plan). For planning purposes, the site lies within the defined Central Activities Zone (CAZ), the West End Retail and Leisure Special Policy Area (WERLSPA), and the West End Strategic Cultural Area. In addition, the site is within the Covent Garden Conservation Area.
6. The London Plan notes that the CAZ is internationally renowned for its culture, night-time economy, tourism, shopping and heritage and is home to a large number of residents. Amongst other things, the strategic functions of the CAZ include the provision of leisure and entertainment. However, it notes² that whilst not a strategic function, locally orientated uses, including housing, play an important role in the character and function of the zone as a vibrant mixed-use area, ensuring activity and vitality at different times of the day and week.
7. Policy HC6 of the London Plan states that planning decisions should promote the night time economy where appropriate, particularly in the CAZ, and address the cumulative impact of high concentrations of licenced premises on anti-social behaviour, noise pollution, health and well-being and other issues for local residents. Policy HC7 expresses support for new public houses where they would stimulate, amongst other things, the night time economy.
8. The relevant City Plan Policies broadly reflect those requirements. Policy 7 requires development to be neighbourly by protecting neighbouring amenity, protecting local environmental quality and protecting and positively responding to local character and the historic environment. Policy 16 requires that proposals for food and drink and entertainment uses are of a type and size appropriate to their location, and over-concentration of such uses prevented where this would harm residential amenity or the vitality and viability of the local area. The justification for that policy indicates that drinking establishments within the WERLSPA will be supported provided they do not lead to over-concentration owing to the impacts on servicing and amenity.
9. In addition to that, City Plan Policy 33 seeks to ensure that the quality of life and health and wellbeing of existing and future occupiers are not adversely affected by negative impacts on the local environment. City Plan Policy 38, which relates primarily to design, requires that all development should create inclusive and accessible spaces and places introducing measures that would reduce the opportunity for crime and anti-social behaviour and ensure a good standard of amenity for new and existing occupiers.

Character of the Area and Living Conditions

10. The appeal building is a sizeable and imposing building that occupies a prominent corner position at the junction of Bedford Street, Chandos Place and Maiden Lane, in an area that lies between Covent Garden and the

² Paragraph 2.4.6

Strand. The area immediately around the site comprises a variety of types and size of buildings and a mix of uses including small shops, cafes and bars at ground level with residential units and offices above.

11. Bedford Street itself provides a pedestrian route between public transport hubs and tourist destinations and as a result the area has a vibrant, busy character in terms of both traffic and pedestrian footfall during the day. During the evening, from all I have read, the area remains busy, but nevertheless quietens after a certain point such that residential and commercial uses can currently co-exist.
12. The appeal site was operated as a restaurant by TGI Fridays for over 20 years and I understand opened until 23.00hrs each day even though the planning permission, granted in 1986, allowed it to open until 00.00hrs. The restaurant provided 221 covers. From all I have read, it appears the permission is extant and I have therefore taken the restaurant use into consideration as a fall-back option.
13. The proposed public house would be operated by JD Wetherspoons, although the permission, if granted, would run with the land and not with a specific operator. It would open between 08.00 and 00.00hrs Monday to Saturday and 08.00 and 23.30hrs on Sundays, although the kitchen would operate until 23.00hrs. The venue would have a maximum capacity of 450 patrons.
14. There are 9 other public houses within close proximity of the site and it seems from the evidence submitted by third parties including residents, commercial land owners and local councillors, that the balance between commercial and residential uses in terms of the local environment is fine. I have read of various incidents of anti-social behaviour in the area which, particularly late into the evening and at night, detracts from residents' living conditions and wellbeing. It seems to me that the impact of noise and disturbance in this particular area is exacerbated by the narrowness of the streets, particularly Bedford Street and Maiden Lane, where facing buildings are close to each other. I note there are numerous residential properties on those roads and at Bedford Court and Exchange Court, in close proximity to the site.
15. Whilst much of the evidence provided is anecdotal, statistics provided by the Metropolitan Police indicate that crimes committed locally, and in the St James ward in general, are predominantly theft from the person, other types of theft, violence and sexual offences, and anti-social behaviour. I note the Designing Out Crime Officer's statement that such crimes are often linked to licenced premises, and the local serving Police Officer's comments about potential nuisance to local residents. I understand that the Council's current licencing policy is to refuse applications for public houses/bars within the West End Cumulative Impact Zone, within which the site falls, and this adds weight to the evidence before me.
16. It seems to me unlikely the public house would always be used to capacity, or that customers would all leave at the same time. Nevertheless the significant increase in capacity would generate an increase in the amount of local activity over the previous restaurant use in terms of comings and goings. The late opening times would mean that the venue could attract

people leaving other premises earlier in the evening and the size of the venue would mean that large groups could be attracted to it.

17. The proposed floorplans indicate that there would still be a significant amount of table seating in the premises, some 219 covers, and I acknowledge that the business has a popular food offering such that it would partly be used as an eatery. However, there would be no requirement for food to be served with drinks as was the case with the previous restaurant. Indeed, the appellant's evidence suggest that across Wetherspoons nationwide only 59% of visits include both food and drink. Furthermore, given the size of the bar and amount of space available, a large number of patrons could stand in the premises for drinking purposes only.
18. I do not doubt that the appellant is a responsible landlord who is prepared to work with the local community and the police. In that respect, the Management Plan sets out measures including strict policies on behaviour in the customer area, the prevention of drinking outside and measures for community liaison if issues arise. However, it is unclear how these measures would relate the behaviour of patrons in the streets after they have left the premises, over which the appellant would have no control. I am unconvinced that appropriate signage would, in itself, prevent unneighbourly behaviour locally.
19. The updated Noise Impact Assessment indicates that noise generated by the proposal would be below the noise level set out in City Council's Environment SPD when measured at noise sensitive properties locally. Whilst I have noted the concerns about the validity of the assessment by representatives of the third parties, I am satisfied that, with mitigation, the proposal would not cause harm to the offices above and that internal and external mechanical equipment would not harm the local environment or residents' living conditions. However, I note that to prevent 'breakout' noise from inside the restaurant, the 5 opening windows would be closed each night at 2200hrs and I am unconvinced that a planning condition, which in effect would require the windows to be closed in warm weather conditions, would be reasonable. Moreover, the assessment does not consider the effect that customers leaving the public house later in the evening would have on residents' living conditions.
20. The appellant's 'Beer Garden Noise Study' indicates that even in a closely managed outdoor space, where clientele later in the evening tends to consist of young adults, there are instances of noise including from large groups as a result of raised voices and shouting, and music from phones, and at two city venues noise levels exceeded what was considered appropriate. In this case no beer garden is proposed but a designated smoking area would be provided close to the front door. Given that outdoor smoking is likely to occur with a restaurant use, and that the area could be monitored by door staff, I am unconvinced that the use of the smoking area in itself would give rise to significant disturbance. Nevertheless, I am unconvinced that groups leaving the public house late at night would not result in the type of behaviour and noise identified by the study.
21. On that basis, taking into account all I have read, the proposal, cumulatively with the existing public house and bar venues locally, would

unbalance the mixed character of the area and cause significant harm to the living conditions of occupiers of nearby residential premises in terms of noise and disturbance. On that basis the proposal would be contrary to the provisions of Policies 7, 16, 33 and 38 of the City Plan and HC6 of the London Plan. The aim of these policies is consistent with the National Planning Policy Framework which requires development to create places that are safe, inclusive and which promote health and wellbeing, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. Accordingly, the policies carry full weight.

22. Therefore, whilst the site lies within defined areas where the Council seeks to promote commercial and economic, tourist and entertainment uses, the proposal does not comply with the development plan when considered as a whole.

Other Matters

23. Externally, the listed building would be altered by, amongst other things, the removal of the existing modern entrance feature and the installation of a pair of entrance doors on a canted angle, to replicate the position and style of the original entrance. Modern decorative panelling and stallrisers would be replaced with tiling that was more in keeping with the historic fabric, and the removal of the suspended ceiling would make the full height of the windows more legible. At the rear of the premises, and not within the public realm, an uncharacteristic high-level duct, one of a group, would be replaced with ventilation equipment that is physically less imposing.
24. These alterations would have a positive impact on the appearance and significance of the listed building and as such are benefits of the proposal. Furthermore, the proposal would be consistent with the statutory requirement of s.66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (The Act) which requires that in considering development which affects a listed building, special regard should be had to the desirability of preserving the building or any special features of special architectural or historic interest it possesses.
25. Similarly, as the development would improve the exterior of the building, it would preserve and enhance the appearance of the Covent Garden Conservation Area within which the site lies and would thus comply with the requirements of s.72 (1) of The Act which requires that, with respect to any buildings or other land within a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
26. In addition, the proposal would result in the re-use of a currently vacant building, create significant economic benefit and the provision of employment opportunities for around 150 full or part time staff.
27. I understand that the existing Premises Licence allows for the playing of recorded music and late night entertainment, and that such matters were not controlled by planning condition on the previous permission. It is not the appellant's intention to play recorded music or provide entertainment.

This could be controlled by planning condition and is a benefit of the scheme over the current restaurant use.

28. As part of the Management Plan the proposal includes the installation of CCTV cameras. There is no information before me as to the current level of security coverage in the immediate vicinity but nevertheless I consider this to be a further benefit of the scheme.

Planning Balance and Conclusion

29. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise.
30. The appeal site lies within designated areas which provide a wide mix of commercial uses that support the West End's role as a centre of the visitor evening and night time economy. As set out above, the proposal brings a number of benefits. These matters cumulatively carry significant weight in favour of the proposal.
31. However, the proposal would, cumulatively with other drinking establishments, have a significantly harmful effect on the character of the area and, as a result, on the living conditions of local residents. These matters weigh substantially against the scheme and would conflict with the development plan when considered as a whole. There are no other planning considerations that outweigh that finding.
32. Therefore, taking into account all matters raised, the appeal is dismissed.

S Ashworth

INSPECTOR